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Y O L O C O U N T Y

FLOOD CONTROL &
WATER CONSERVATION
DISTRICT

September 21, 1999



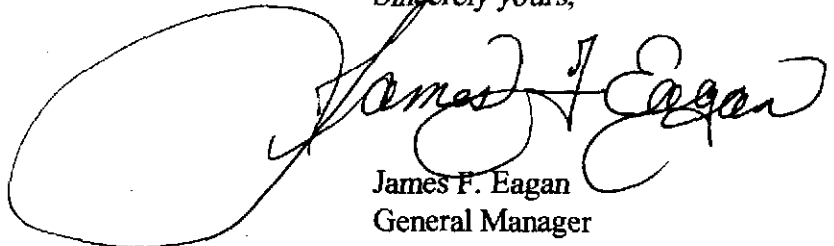
CALFED Bay-Delta Program
1416 9th Street, Suite 1155
Sacramento CA 95814

Re: Comments on CALFED Draft Programmatic EIS/EIR (June 1999);
State Clearinghouse No. 96032083

Enclosed are the comments of Yolo County Flood Control & Water Conservation District to the CALFED Draft Programmatic EIS/EIR. Our District is deeply disappointed that the revised Draft EIS/EIR fails to correct the numerous deficiencies that the District pointed out in its comments to the March 1998 CALFED Draft EIS/EIR. Virtually every component of the proposed CALFED program, as now written, would result in significant adverse redirected impacts to agriculture and agricultural communities in the Sacramento Valley. Yet, the draft program proposes no meaningful mitigation for those impacts.

Our District would expect northern California communities to oppose the CALFED program in the strongest terms unless it is substantially revised to address and resolve the concerns noted in our comments.

Sincerely yours,



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Comments on CALFED Draft Programmatic EIS/EIR (June 1999)

Yolo County Flood Control & Water Conservation District ("District") submits the following comments on the Draft CALFED Programmatic EIS/EIR (June 1999, hereinafter referred to as the "Draft EIR").

INTRODUCTION

The agricultural economy of Yolo County and the rest of the Sacramento Valley is dependent on the protection and preservation of local water supplies for present and future uses. Adherence to the area of origin and watershed protection laws is crucial to protection of the water rights and entitlements relied on by Sacramento Valley agriculture.

The District's boundaries include approximately 196,000 acres of land in Yolo County westerly of the Yolo Bypass. The cities of Davis, Winters and Woodland are within the District's boundaries. Generally, the land irrigated in the District receives one-half of its water supply from surface water and one-half of its water supply from groundwater. All of the water supplies for municipal and domestic use are from groundwater.

The District's water supply system includes Clear Lake, Indian Valley Reservoir and Cache Creek. The District supplies approximately 190,000 acre feet of surface water for agricultural use each year through a 175-mile water system. The development and distribution of surface water supplies by the District provide substantial groundwater recharge benefits.

The exercise of Cache Creek water rights by the District has historically occurred when Cache Creek and its tributaries have little or no hydraulic continuity with the Delta, or when the Delta was not in balanced conditions under the May 1995 Water Quality Control Plan for the Bay-Delta. On June 9, 1998, the District and the California Department of Water Resources entered into a stipulation that was submitted to the State Water Resources Control Board as part of its Bay-Delta water rights

hearing, that reads in part: "To the extent that the exercise of its Cache Creek water rights is in accordance with its existing water rights, no requirements should be placed upon Yolo [i.e., the District] to implement the water quality objectives in the Plan."

The District submitted comments on the CALFED Draft Programmatic EIS/EIR that was issued in March 1998 ("1998 Draft EIR"), and incorporates those comments by reference. The essence of the District's comments on the 1998 Draft EIR was that the proposed CALFED program consistently violated the CALFED principle that CALFED solutions to Bay-Delta problems would not result in significant redirected negative impacts to other regions of California, such as areas of origin. Regrettably, the current Draft EIR does not correct that fatal flaw.

NO REDIRECTED IMPACTS

The District supports in concept the objectives of the CALFED program, namely, to implement improvements to ecosystem quality, water supply reliability, water quality and levee system reliability, and supports the principles stated to achieve those objectives. Adherence to the program's solution principles will be crucial to its success. One of the most important principles is that the program's solutions will not cause impacts to be redirected to other areas of California, such as areas of origin: "Solutions will not solve problems in the Bay-Delta system by redirecting significant negative impacts, when viewed in their entirety, within the Bay-Delta or to other regions of California." The principle, if it is to mean anything, however, cannot be qualified or diluted in any respect. Many agencies who commented on the 1998 Draft EIR, including the District, requested that CALFED make it clear that the phrase, "when viewed in their entirety," does not mean that a program "solution" that causes a significant negative impact elsewhere (such as within the area of origin) is acceptable, and consistent with CALFED principles. CALFED has failed to provide that clarification in the current Draft EIR.

In fact, it is clear that it is in the very essence of the proposed CALFED program that problems in the Bay-Delta system that have been primarily caused by operation of the State Water Project and the Central Valley Project would be solved to a significant extent by (1) taking thousands of acres of

agricultural land within the area of origin out of production, and (2) reallocating thousands of acre feet of water from area of origin uses to Bay-Delta purposes. It is just as clear that the District and other agencies within the area of origin cannot and will not support the proposed CALFED program that would so blatantly and consistently violate its so-called solution principles at the expense of the area of origin.

For example, the ecosystem restoration plan would convert 34,000 acres of "important farmland" in the Sacramento Valley to habitat purposes, and acquire up to 68,000 acre feet per year for riparian habitat. (Draft EIR, page 7.1-21.) From 80,000 to 100,000 acre feet would be acquired in dry years to improve flows into the Sacramento River Basin. (Page 5.1-64 of the Draft EIR and Page D-22 of the Ecosystem Restoration Program Plan.) The Draft EIR states that the implementation of the ecosystem restoration program would increase the use of instream flows for environmental purposes but would reduce water supplies available for diversion (page 5.1-35), and could result in significant adverse impacts within the Sacramento River Region (pages 3-6 and 3-24). The Draft EIR states that implementation of the ecosystem restoration program could result in a loss of crop revenue within the Sacramento River Region of between \$17 million and \$51 million per year, which would result in substantial adverse economic effects on farm revenues, income generation, employment levels and the financial viability of local water districts (page 7.2-16). The Draft EIR estimates that up to 2,550 jobs would be lost within the Sacramento River Region (page 7.3-15).

The Draft EIR (pages 7.2-17 and 18) states that the CALFED water transfer program could cause all of the following impacts within the Sacramento River Region: (1) a temporary or permanent increase in groundwater pumping, resulting in increased costs associated with groundwater overdraft, including pumping from lowered groundwater levels, deepening wells, lower pumps and redrilling wells, all of which could reduce irrigated acreage of nearby farms that are not transferring water; (2) groundwater substitution transfers under the CALFED program could reduce surface water flows due to induced seepage, reduced crop yields due to lower water quality, reduced demand for crop storage and processing, reduced demand for farm inputs, lower ground elevations that would increase the risk of flooding in affected areas and reduce habitat supported by surface seepage of groundwater;

(3) reductions in agricultural production resulting from the CALFED water transfer program also could adversely affect related agricultural industries and cause a third-party effect on local rural economies; and (4) surface water transfers could reduce the water supplies available to others within the region.

In addition to those impacts, the CALFED conjunctive use program (which is just another type of water transfer) would adversely impact the ability of area of origin water users to utilize storage capacity in local groundwater aquifers for local water supply needs. The CALFED EIR fails to acknowledge that many area of origin counties (such as Yolo County) lack adequate water supplies to meet current and future water needs. The CALFED proposal would usurp water supply development opportunities that are needed by area of origin water users, and the Draft EIR fails to discuss those impacts. This is another example of the CALFED program's sacrifice of area of origin needs in order to maintain the operation of, and mitigate for impacts from, the SWP and CVP.

The Draft EIR states that the removal of diversion structures on Sacramento River tributaries, which are to be studied under the CALFED program, could increase the level of flooding downstream of those facilities (pages 3-24, 7.8-3 and 7.8-30). Acquiring conservation easements along riparian corridors under the CALFED program could result in reduced levee stability (page 7.8-2).

The Draft EIR leaves the issue of mitigation for environmental impacts to future environmental documents.

Again, the District strongly requests that CALFED revise the proposed program to eliminate significant redirected negative impacts within the area of origin, and unequivocally state that it will strictly adhere to the solution principle of no significant redirected impacts.

RESPONSIBILITY TO MITIGATE FOR ADVERSE CONDITIONS IN THE BAY-DELTA

In several places, the Draft EIR discusses the causes for the declining environmental health of the

Bay-Delta system. For example, the draft states on page 1-9: "Upstream water development and use, depletion of natural flows by local diverters, and the export of water from the Bay-Delta system have changed seasonal patterns of the inflow, reduced the outflow, and diminished the natural variability of flows into and through the Bay-Delta system. Facilities constructed to support water diversions (upstream, in-Delta, and export facilities) cause straying or direct losses of fish (for example, through unscreened diversions) and can increase exposure of juvenile fish to predation. Entrainment and removal of substantial quantities of food-web organisms, eggs, larvae, and young fish further exacerbate the impacts of overall habitat decline. Habitat alteration and water diversions are not the only factors that have affected ecosystem health. Water quality degradation caused by pollutants and increased concentrations of substances also may have contributed to the overall decline in the health and productivity of the Bay-Delta system. In addition, undesirable introduced species may compete for available space and food supplies, sometimes to the detriment of economically important introduced species".

While the foregoing statements may be true to various degrees, the Draft EIR lacks a discussion of the relative contribution of various factors to the environmental decline of the Bay-Delta ecosystem. Instead, by proposing (1) significant reduction in agricultural production in the area of origin, and (2) significant reallocation of water supplies from the area of origin, the Draft EIR implies that water development and use within the area of origin has significantly contributed, together with operation of the SWP and CVP and other factors, to the decline of the Bay-Delta ecosystem, and should therefore substantially share in responsibility for mitigating those impacts. That is an absurd proposition.

If upstream diversions have caused any adverse impact to Bay-Delta environmental resources (which we doubt), they have been insignificant compared to impacts caused by the export projects. The District asserts that the primary cause of the diminishment of the Bay-Delta ecosystem, and hence the need for the CALFED program, is the export of water from the Delta.

The Draft EIR does not attempt to quantify either the magnitude of the effects of upstream diversions on Delta inflows or the effects of those diversions on the quality of the Bay-Delta ecosystem. There can be no doubt that the effects of upstream water development are minor in comparison to the major impacts on the Bay-Delta ecosystem that have been caused by the Bureau of Reclamation's construction and operation of the Delta Cross Channel and the subsequent construction and operation of the SWP's Bank's Pumping Plant and the CVP's Tracy Pumping Plant. After the Delta Cross Channel was constructed, large portions of the Sacramento River began to flow, for the first time, into the Central Delta, taking large numbers of fish from the Sacramento River with them, and dramatically altering the historical flow patterns in the Central Delta. The Banks and Tracy Pumping Plants have further altered these inflow patterns, and also have directly entrained and killed millions of Delta fish.

As noted in the Introduction, the District supports the goals of the CALFED program, including improvement in water quality and water supply reliability for the SWP and CVP. Given the great disparity in the relative impacts of area of origin water development and use compared with the construction and operation of the SWP and CVP facilities in the Delta, however, it simply would not be fair or reasonable for area of origin water uses in the Sacramento Valley to have to suffer significant impacts to implement a program that is designed to stabilize and increase the diversion of water from the South Delta in the future by the SWP and the CVP.

The Draft EIR should be expanded to explain the relative causation and the primary causes of impacts to the Bay-Delta ecosystem, and refrain from imposing impacts from mitigation measures on area of origin water uses. Instead, the proposed CALFED program assigns responsibility to mitigate for Bay-Delta conditions to areas that have not substantially contributed to those conditions, in violation of the CALFED solution principles.

A PROGRAMMATIC EIS/EIR IS NOT A SUBSTITUTE FOR A REAL EIR WITH IMPACT ANALYSIS AND MITIGATION

The Draft EIR provides no specific information on the details of the proposed CALFED program, the impacts of the program in particular areas or measures to mitigate adverse impacts. As such, it has very little use as an environmental review document, and cannot substitute for full environmental review of the proposed program's preferred alternative. When components of the CALFED program are implemented, there will need to be subsequent EIS/EIR's to analyze and mitigate the future project-specific impacts. (CEQA Guidelines Section 15168 (c); *Rio Vista Farm Bureau Center v. County of Solano* (1982) 5 Cal.App.4th 351, 372.) The CALFED EIR should expressly commit to the preparation of such future environmental documents.

WATER USE "EFFICIENCY" PROGRAM

The proposed water use efficiency program has the potential to cause significant adverse impacts within the Sacramento Valley that would violate the CALFED principle that solutions will not result in redirected impacts. The Draft EIR correctly recognizes that there is very little opportunity within the Sacramento River region to generate new water supplies through implementation of agricultural water conservation measures. (See, for example, p. 4-2 of the Water Use Efficiency Program Plan.) The 1998 Draft EIR discussed the fact that water conservation within the Sacramento River region does not result in new water supplies: "Typically, losses associated with agricultural water use in this [Sacramento River] region tend to return to the system of rivers, streams, and aquifers. Reuse of these losses is widely practiced. The region does not have significant irrecoverable losses, although water quality degradation does occur. Much of the region's groundwater resources are recharged by annual over-irrigation and deep percolation of applied water. This water is pumped by many of the area's agricultural lands that are irrigated solely with groundwater. In addition, tailwater from fields typically returns to streams and becomes part of the instream flow diverted for another farm, wetland, or city somewhere downstream." (At page 4-24 of the Water Used Efficiency Component Technical Appendix. See also pages 4-13 through 4-17 of the Water Use Efficiency Program Plan.)

Water conservation should be implemented if it increases the available water supply, and if it is economically and environmentally feasible. In the Sacramento Valley, application of agricultural water recharges groundwater aquifers. Reduction in application of water in the name of "conservation" could reduce the groundwater supply and interfere with ongoing conjunctive use programs that are vital to local water supplies, particularly during drought periods. Reduction in agricultural water application could adversely impact agricultural production if, as a result, salts are not leached from the soil's root zone or through use of lesser-quality recirculated water, which is acknowledged on page 4-7 of the Water Use Efficiency Program Plan.

After acknowledging that water "efficiency" within the Sacramento Valley does not generate a new water supply, the proposed CALFED water use efficiency program (in combination with other conservation proposals) would nevertheless result in a reduction of applied water for agricultural use within the Sacramento River region of up to 1,340,000 to 1,434,000 acre feet. The Draft EIR estimates that the on-farm cost to implement the water use efficiency program in the Sacramento Valley will range from \$50 to \$60 per acre foot per year, and the cost to the water district to implement the program would be an additional \$7.80 per acre foot per year. (See pages 4-2 and 4-59-60 of the Water Use Efficiency Program Plan.) For a crop that used three acre feet per acre, therefore, the estimated on-farm cost to implement the CALFED water use efficiency program would range from \$150 to \$180 per acre per year, not including the additional \$7.80 per acre foot per year water district cost. For water conservation measures that do result in a new water supply, the Draft EIR estimates that the cost would range from \$100 to \$600 per acre foot per year in the Sacramento Valley. (See pages 4-2 and 4-59.)

The Draft EIR "assumes" that implementation of conservation measures will not result in redirected impacts on the water user or water supplier. (See page 4-15.) The CALFED Implementation Plan calls for a variety of funding methods that could result in higher costs to area of origin water users, including loans, user fees and taxes. (See pages 3 and 14.) The Draft EIR states (at pages 7.1-19 and 7.1-21) that the water use efficiency program in the Sacramento River Region could result in higher annual costs that "cause a shift in the type of crops grown, such as to higher value crops to justify the

increased water cost.”

It appears that the CALFED program would substantially decrease the amount of water applied to agricultural use in the Sacramento Valley, and potentially increase the cost of water, without significantly increasing the water supply. If the cost of water within the area of origin is increased as a result of the CALFED program, then the result would be to force land to be taken out of agricultural production because the water supply cost would be prohibitive. Another result could be to force an over-reliance on groundwater if the cost of surface water were prohibitive. CALFED should clarify whether these types of impacts are likely to result in the area of origin from the CALFED program. If so, the program should be revised to eliminate those impacts.

WATER TRANSFERS

The revised CALFED Water Transfer plan does not provide enough specific information on how much water would be transferred, and from where, to permit meaningful comment. The District agrees that water transfers cannot substitute for the need for new water supplies, and that additional storage capacity is required both upstream of the Delta and in export areas for water transfers to play a meaningful role in meeting California's water supply needs. (See pages 1-4 and 1-5 of the Water Transfer Program Plan.)

The District requests that the CALFED water transfer program and Draft EIR incorporate these principles:

1. Transfers should be voluntary, and the essence of a voluntary transfer is that the consent of the water right holder is needed. The policy should not pressure water right holders to consent to user-initiated transfers.

2. CALFED should declare that fallowing agricultural land in the Sacramento Valley will not be pursued as a source of water under the CALFED program.

3. Any conjunctive use transfer program must (a) be controlled by local public agencies in the area from which the water is to be transferred, (b) include a program of data collection to establish the safe yield of the affected aquifer, (c) carefully monitor the program to avoid impacts, (d) include a program to mitigate for impacts, and (e) include local benefits from the program.

4. CALFED should not pursue already-developed water supplies from areas whose long-term water supplies will not meet long-term needs. CALFED should pursue water supplies only from areas that have identified a long-term surplus.

5. CALFED should pursue water supplies through development of both onstream and offstream storage facilities, instead of relying on water transfers and reduction in the application of agricultural water in the Sacramento Valley.

A CALFED water transfer program could have significant adverse impacts in the Sacramento River region, including an increase in groundwater pumping, increased pumping costs, exacerbation of groundwater overdraft, reduction of groundwater recharge, reduction in crop yields due to poorer water quality, reduced farm output, land subsidence making affected areas more susceptible to flooding, infrastructure damage and reduced wildlife habitat. These could all be significant redirected adverse impacts in the Sacramento Valley from implementing a CALFED program, which should be addressed in a future CALFED project EIR.

ECOSYSTEM RESTORATION

This section of the revised plan discusses process and philosophy more than the specifics of a particular proposal, including impacts and mitigation measures. The proposal to convert up to 34,000 acres of "important farmland" in the Sacramento Valley, which would also require up to 68,000 acre feet per year for riparian habitat (Draft EIR, page 7.1-21) would result in significant redirected impacts in the Sacramento Valley. A thorough environmental review will be necessary, and should be committed to by CALFED, before any particular action is implemented.

For the reasons discussed above, the ecosystems restoration plan should not result in adverse redirected impacts in the area of origin. Problems caused by the operation of the SWP and CVP should not be solved at the expense of the Sacramento Valley.

The proposal to acquire 100,000 acre feet to improve flows in the Sacramento and San Joaquin Basins (page D-22 of the Ecosystem Restoration Program Plan) has the potential to result in significant adverse environmental impacts in the Sacramento Valley.

The proposal to remove Daguerre Dam and Englebright Dam on the Yuba River (page D-36) are clear examples of actions to mitigate for impacts caused by the operation of the SWP and CVP that would result in significant adverse water supply impacts in the area of origin, in violation of CALFED solution principles.